

BIRCH, STEWART, KOLASCH & BIRCH, LLP

INTELLECTUAL PROPERTY LAW

8110 GATEHOUSE ROAD

SUITE 500 EAST

FALLS CHURCH, VA 22042-1210

USA

(703) 205-8000

FAX: (703) 205-8050

(703) 698-8590 (G IV)

e-mail: mailroom@bskb.com

web: http://www.bskb.com

CALIFORNIA OFFICE

COSTA MESA, CALIFORNIA

SCOTT L. LOWE
PAUL C. LEWIS
RICHARD J. GALLAGHER
JAYNE M. SAYDAH*
MARYANNE ARMSTRONG,
KECIA J. REYNOLDS
ROBERT L. SCOTT, II
KALPANA REDDY
MARK E. OLDS
ESTHER H. CHONG
CATHERINE M. VOISINET*
EUGENE T. PEREZ

REG. PATENT AGENTS:
FREDERICK R. HANDREN
MAKI HATSUMI
CRAIG A. McROBBIE
GARTH M. DAHLEN, PH.D.
ROBERT E. GOOZNER, PH.D.
KRISTI L. RUPERT, PH.D.
MATTHEW T. SHANLEY
SUSAN W. GORMAN, PH.D.
DAVID J. CHO
ROBERT W. DOWNS

TERRELL C. BIRCH
RAYMOND C. STEWART
JOSEPH A. KOLASCH
JAMES M. SLATTERY
BERNARD L. SWEENEY*
MICHAEL K. MUTTER
CHARLES GORENSTEIN
SERALD M. MURPHY, JR.
LEONARD R. SVENSSON
ANDREW D. MEIKLE
MARC S. WEINER
JOE McKINNEY MUNCY
ROBERT J. KENNEY
JOHN W. BAILEY
MARK J. NUELLE, PH.D.
JAMES T. ELLER, JR.
D. RICHARD ANDERSON

OF COUNSEL:

ROBERT M. BIRCH (1905-1996)
ELLIOT A. GOLDBERG*
WILLIAM L. GATES*
EDWARD H. VALANCE
RUPERT J. BRADY (RET.)*
F. PRINCE BUTLER
FRED S. WHISENHUNT
JAMES W. HELLWEGE

*ADMITTED TO A BAR OTHER THAN VA

jc872 B.S. PTO
10/084139
02/28/02

Date: February 28, 2002

Docket No.: 1110-0307P

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

This is a Request for filing a ☐ continuation ☒ divisional
☐ continuation-in-part application under 37 C.F.R. § 1.53(b) of
pending prior Application No. 09/297,328 filed on April 29, 1999,
the entire contents of which are hereby incorporated by
reference,
by

NAGATA, Shigekazu; YATOMI, Takehiro; and SUDA, Takashi

for

PROPHYLACTIC/THERAPEUTIC AGENT

1. ☒ Enclosed is an application consisting of specification,
claims, declaration and drawings/photographs (if
applicable).
2. ☒ The filing fee has been calculated as follows:

			LARGE ENTITY	SMALL ENTITY
BASIC FEE			\$740.00	\$370.00
	NUMBER FILED	NUMBER EXTRA	RATE FEE	RATE FEE
TOTAL CLAIMS	15-20 =	0	x 18 = \$0.00	x 9 = \$0.00
INDEPENDENT CLAIMS	5-3 =	2	x 84 = \$168.00	x 42 = \$0.00
<input type="checkbox"/> MULTIPLE DEPENDENT CLAIMS PRESENTED			+ \$280.00	+ \$140.00
TOTAL			\$908.00	\$0.00

3. ☒ A check in the amount of \$908.00 to cover the filing fee and recording fee (if applicable) is enclosed.
4. ☐ Please charge Deposit Account No. 02-2448 in the amount of \$0.00. A triplicate copy of this request is enclosed.
5. Amend the specification by inserting before the first line thereof the following:
- a. ☐ --This application is a ☐ continuation ☐ divisional ☐ continuation-in-part of co-pending Application No. 09/297,328, filed on April 29, 1999, the entire contents of which are hereby incorporated by reference and for which priority is claimed under 35 U.S.C. § 120; and this application claims priority of Application No. filed in on under 35 U.S.C. § 119.--
- b. ☒ --This application is a ☐ continuation ☒ divisional ☐ continuation-in-part of co-pending Application No. 09/297,328, filed on April 29, 1999 and for which priority is claimed under 35 U.S.C. § 120. Application No. 09/297,328 is the national phase of PCT International Application No. PCT/JP97/03978 filed on October 31, 1997 under 35 U.S.C. § 371. The entire contents of each of the above-identified applications are hereby incorporated by reference. This application also claims priority of Application Nos. 08-290459; 08-351718; and 09-262521 filed in JAPAN on October 31, 1996; December

27, 1996; and September 26, 1997, respectively, under 35 U.S.C. § 119.--

6. ☒ Enclosed is/are twenty-one (21) sheet(s) of formal drawings and/or photographs.
- 7a. ☐ A statement claiming small entity status was filed in prior Application No. 09/297,328 on _____. See the attached copy of the statement claiming small entity status.
- 7b. ☐ The current application qualifies for small entity status.
8. ☒ The prior application is assigned to Mochida Pharmaceutical Co., Ltd. and Osaka Bioscience Institute.
9. ☐ A Preliminary Amendment is enclosed.
- 10a. ☐ Priority of Application No(s). _____ filed in _____ on _____ is/are claimed under 35 U.S.C. § 119. See attached copy of the Letter claiming priority filed in the prior application on _____.
- 10b. ☒ Priority of International Appln. PCT/JP97/03978 filed on October 31, 1997 under the Patent Cooperation Treaty and Japanese Application Nos. 08-290459; 08-351718; and 09-262521 filed in JAPAN on October 31, 1996; December 27, 1996; and September 26, 1997 under 35 U.S.C. § 119 are hereby reclaimed.
11. ☒ An Information Disclosure Statement and PTO-1449 form(s) are attached hereto for the Examiner's consideration.
12. ☒ Address all future communications to:

BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church, VA 22040-0747
Telephone: (703) 205-8000

or
Customer No. 2292
13. ☐ An extension of time for _____ () month(s) until has been submitted in parent Application No. 09/297,328 in order to establish co-pendency with the present application.
14. ☒ Also enclosed herewith is the following:

Receipt of Deposit of Microorganisms; and

Verification of Translation.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By *gmurphy* (Reg No 46,069)
Gerald M. Murphy, Jr., #28,977

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

GMM/MAA/csp
1110-0307P

Attachments

(Rev. 11/15/01)